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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,957	01/21/2005	Jane Patricia Murfett	ROCKCO P67AUS	2115

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DAVIS & BUJOLD, P.L.L.C.  
112 PLEASANT STREET  
CONCORD, NH 03301

EXAMINER
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JONES, DANIEL A

ART UNIT	PAPER NUMBER
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3643

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/521,957

Applicant(s)

MURFETT, JANE PATRICIA

Examiner

Daniel Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/21/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. Claim 14 is objected to because of the following informalities:
  - a. The phrase “along the first and second sides of the axis of alignment, each the first and second sides extending from the first transverse side to the second transverse side” should be amended to “along the first and second **lateral** sides of the axis of alignment, each **of** the first and second **lateral** sides extending from the first transverse side to the second transverse side” to avoid confusion of which sides are referred to.
  - b. The phrase “and the second later side” should be “and the second **lateral** side” in the third clause.
  - c. The word “milit” appears to be a misspelling of the word “limit”.
  - d. The word “leg” should be “**legs**” in the final clause.

Appropriate correction is required.

2. Claim 21 is objected to because of the following informalities:
  - e. The phrase “wherein the sheet material is of a type intended from...” should be amended to “wherein the sheet material is of a type intended **for**...”

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Regarding claims 16 and 18, the phrase "such as" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

5. Claim 18 contains the trademark/trade name VELCRO. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a hook and loop fastener and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 14-21 are rejected under 35 U.S.C. 102(e) as being anticipated by

HIBBERT (US-6431123).

f. Re claim 14, HIBBERT discloses a dressing for a four legged animal comprising:

i. a sheet member including two apertures (shown as elements 34 and 36 in Figure 3, also seen in all the other embodiments, such as in Figures 13 and 14 where the apertures are elements 250 and 252) for location at or near a front end of an animal to which a dressing is to be applied, each aperture being adapted to receive a front leg of an animal, and the sheet member (for instance element 22 in Figure 3 or 222 in Figure 14) being bounded by:

- (1) a first transverse (front) side (for instance element 30 in Figure 3 or element 240 in Figure 14), from which the two apertures (for instance elements 34 and 36 in Figure 3 or 250 and 252 in Figure 14) are spaced by an amount considerably less than an overall length of the sheet member (note in Figures 3 and 14 that the apertures are much nearer the front than the rear);
- (2) a second transverse (rear) side (for instance element 32 in Figure 3 or 234 in Figure 14) transverse an axis of alignment (A in Figure 3, shown but not labeled in Figure 14) and spaced on the axis remotely from the first transverse side (on the opposite side of the sheet member 22 or 222);
- (3) first and second lateral sides (note in the embodiment of Figures 13 and 14 that first and second lateral sides are above and

below the axis seen in Figure 14 and are differentiated by "first and second side portions 260 and 262" of the strap member 224 and by "sheet side edges 236 and 238", column 10, lines 48-60) extending from the first transverse side along the first and second lateral sides of the axis of alignment, each of the first and second lateral sides extending from the first transverse side to the second transverse side; the first lateral side being disposed on one side of the axis of alignment (see Figure 14 especially) and the second lateral side being disposed on another side of the axis of alignment (see Figure 14 especially);

- (4) locating means (for instance "neck portion 232" with "neck side edges 242 and 244", see column 10, lines 28-36) defined by, or by way of, the sheet member comprising or including a cup or recess (note especially from the embodiments of Figures 4B, 5, 7, 9, 10 and 13 that this region of HIBBERT's invention is a recess receiving a body region of an animal) adapted to receive a body region of an animal with its front legs projected through the two apertures to provide for location of the sheet member on the animal so as to limit movement of the dressing relative to the animal in a direction coaxial with, or parallel to, the axis of alignment; and
- (5) a complementary linkage means ("fastening system 226" is described in the last paragraph of column 10) provided on the first

and second lateral sides ("hook portion 280 and loop portion 282 are elongate rectangles that are sewn along the first side edge 236 and the second side edge 238", column 10, lines 61-65) to enable the first lateral side to be demountably coupled to the second lateral side in a working configuration (as seen in Figure 13) of the dressing with the legs of the animal extending through each of the apertures and the first lateral side to be freed from coupling with the second lateral side in a standby configuration of the dressing (a standby configuration is seen in Figure 14).

g. Re claim 15, HIBBERT discloses that the second lateral side (in the embodiment of Figure 13 this corresponds to the left side of the animal) is shaped so that with the dressing in the working configuration (for example seen in Figure 13) the second lateral side bounds (the second lateral side bounds the animal's rear on the left side) and leaves exposed a predetermined region (the animal's rear torso region and legs are exposed) of a body of the animal when the dressing is in the working configuration.

h. Re claim 16, HIBBERT discloses that the sheet, in a region of the second lateral side, serves to define a number of possible paths ("cut line or lines" column 12, line 56) such as by one of marks, lines and perforations in the sheet, the paths providing for the sheet to be cut to establish one of the paths as a fresh second lateral side for the dressing ("The veterinarian or other person applying the cover can then modify the cover on site to fit the needs of a particular animal"

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and also "can cut the basic design at the cut line or lines to form one of the more specialized designs", see column 12, lines 41-67).

i. Re claim 17, HIBBERT discloses that at least one of the apertures (note the embodiment of Figure 4B, with leg holes 34a and 36a) includes a sleeve (62 or 64) extending from the aperture so that in the working configuration of the dressing, the leg of the animal extending through the aperture is surrounded, and is resiliently held, by the sleeve (see Figure 4B).

j. Re claim 18, HIBBERT discloses that the complementary linkage means (226 of the embodiment of Figures 13 and 14) is chosen from a group consisting of at least one pair of tapes or strings which can be knotted together, a touch fastener material (note in the embodiment of Figures 13 and 14 that "a hook and loop fastener" comprises elements 280 and 282 and also that other types of fasteners may be used instead, see column 10, line 61 through column 11, line 6) such as VELCRO, an adhesive and a plaster.

k. Re claim 19, HIBBERT discloses that the dressing includes means for one of positively locating or retaining a local dressing ("dressings... may be sewn in to the interior of the cover 22", see column 5, lines 43-45) on the sheet member (see column 5 lines 35-50) or for retaining medication ("the cover 22 may be impregnated... with a medicinal material...", see column 5. lines 48-50) at a predetermined location on the sheet member in a working configuration of the dressing.



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l. Re claim 20, HIBBERT discloses that the dressing is of a material or materials (up to 100% of an elastic material such as Lycra, Spandex or equivalents, see column 12 TABLE A and lines 17-23) of a type able to withstand at least one autoclaving (Lycra spandex can withstand gas autoclaving using a mixture of ethylene oxide and Freon 12, but not a steam autoclave, see [http://www.oandp.org/jpo/library/1991\\_03\\_146.asp](http://www.oandp.org/jpo/library/1991_03_146.asp)) or other sterilization process to enable the dressing to be reused.

m. Re claim 21, HIBBERT discloses that the sheet material is of a type intended for one-off disposable (note use of the word "discarded" in the first paragraph of column 13 and that "the veterinarian may prescribe the number of covers provided and the intervals at which they are to be changed" in column 13, lines 11-13) usage (see column 13 lines 1-19).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see form PTO-892 and the following:

CASTER-UDELL (US-1772827)

NORVIG (US-2406575)


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Jones whose telephone number is 571-272-7963. The examiner can normally be reached on M-F 8am-4pm.

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10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571)272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dj

  
Andrea Valenti  
Primary Examiner  
Art Unit 3643